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October 19, 2023

VIA ECF

Hon. Dale E. Ho
United States District Court
Southern District of New York
40 Foley Square,
New York, NY 10007

RE: **Charles v. Pinnacle Too, LLC., et al.**
No. 22-CV-4232

Dear Judge Ho,

We represent Plaintiff in the above referenced matter. We write to provide the Court with a status of the case, in preparation of the October 24, 2023 pre-trial telephonic conference, pursuant to ¶ 5 of page 5 of the Case Management Plan entered by the Court on August 30, 2022.

We believe that a pre-trial conference at this time may be helpful to resolve the several pending issues before the Court. We had given Defendants an opportunity to join in this letter but they declined, citing to the volume of outstanding disputes. However, to avoid being in violation of a standing Court order, we have submitted this letter without Defendants.

1. Deadlines and due dates

Below is a list of the existing deadlines and due dates:

- The deadline for the Parties to meet & confer on settlement is on October 30, 2023;
- Defendants' deadline to oppose Plaintiff's Motion for Final Collective Certification is on October 30, 2023;
- Plaintiff's deadline to reply to Defendants' opposition to Plaintiff's Motion for Final Collective Certification is due on November 6, 2023.

2. Outstanding Dispositive Motions

On September 29, 2023, Plaintiff filed a Motion to Certify Class and Approve Class Counsel. Defendants failed to oppose Plaintiff's Motion. Four days after the deadline had passed, and after Plaintiff filed his request to consider the motion as unopposed, Defendants requested an extension of their deadline to respond to the Motion. As, the Court has not ruled on Defendants' request, Plaintiff's Motion for Class Certification remains unopposed.

On October 16, 2023, Plaintiff filed a Motion for Final Collective Certification. Defendants' deadline to oppose Plaintiff's Motion is on October 30, 2023.

3. Status of discovery

On October 12, 2023, Defendants filed a letter motion requesting a forty-five-day extension of the deadline to complete discovery, which expired already on October 16, 2023. The next day, on October 13, 2023, after deposing Plaintiff for seven hours, Defendants filed another letter motion requesting leave to continue Plaintiff's deposition taken on October 6, 2023, and October 13, 2023, beyond the seven-hour limit.

A conference to resolve both discovery disputes with Magistrate Judge Willis is scheduled on November 1, 2023.

On October 16, 2023, Defendants untimely served unverified responses to Plaintiff's requests for admission by objecting to almost every single request using the same language. Plaintiff thus requested the Court deems the Requests for Admission as admitted, due to Defendants' untimeliness, failure to verify, and submitting non-sensical responses.

The Court is yet to rule on the matter.

4. Settlement Discussions

Settlement discussions are ongoing.

5. Trial

Plaintiff expects the trial last three to five days. This case is to be tried to a jury.

6. Motion for Summary Judgment

Plaintiff anticipates filing a motion for summary judgment and proposes the following briefing schedule:

- Plaintiff's Motion for Summary Judgment to be filed on November 15, 2023.
- Defendants' Opposition to Plaintiff's Motion for Summary Judgment to be filed on November 29, 2023.
- Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motion for Summary Judgment to be filed on December 6, 2023.

Respectfully submitted,

/s/ C.K. Lee
C.K. Lee, Esq.